Supreme Court, U. S.
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1974

No. 73-1723

JOHN L. HILL, Attorney General of Texas,
Appellant,

v.

MICHAEL L. STONE, DOROTHY I. ELLIS, JAMES D. HENDERSON, PAT CROWLEY and MARJORIE M. WATSON;
THE CITY OF FORT WORTH, TEXAS, a Municipal Corporation; R. M. STOVALL, its Mayor; S. G. JOHNDROE, JR., its City Attorney; ROY A. BATEMAN, its City Secretary; and the MEMBERS OF THE CITY COUNCIL thereof, *Appellees.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

Brief of Appellees, the City of Fort Worth, Texas, a municipal corporation; R. M. Stovall, its Mayor; S. G. Johndroe, Jr., its City Attorney; Roy A. Bateman, its City Secretary; and the Members of the City Council thereof

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To: The Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

This is an appeal from the judgment of a Three-Judge Court for the Northern District of Texas dated March 25, 1974, in Cause No. CA-4-1975, styled Michael L. Stone et al., Plaintiffs, v. The City of Fort Worth et al., Defendants, 377 F.Supp. 1016.

OPINIONS BELOW

The Memorandum Opinion of the Three-Judge Court dated March 25, 1974, declared unconstitutional Article VI, §§ 3 and 3a, of the Texas Election Code, and Section 19, Chapter XXV of the Fort Worth City Charter. Same is printed in Appendix A of the Jurisdictional Statement at pages 6a-27a. The decision of the Three-Judge Court is in direct conflict with the decision of the Supreme Court of Texas, rendered in 1971, in *Montgomery Independent School District v. Crawford Martin, Attorney General of Texas*, 464 S.W.2d 638, which decision upheld the validity of Article VI, § 3a, of the Texas Constitution.

Notice of appeal of these defendant-appellees was timely filed in the United States District Court for the Northern District of Texas, Fort Worth Division, on April 17, 1974. (Appendix, pp. 2-3)

JURISDICTION

As stated by appellant, this is a direct appeal as authorized by 28 U.S.C. § 1253 from a judgment by the Three-Judge Court permanently enjoining and prohibiting defendant-appellees herein, "their respective agents, servants, employees and successors," from giving any force or effect to Article VI, §§ 3 and 3a, of the Texas Constitution; Articles 5.03, 5.04 and 5.07 of the Texas Election Code; and Section 19 of Chapter XXV of the Fort Worth City Charter "insofar as they are now constitutionally invalid, in assessing the validity of votes cast in Fort Worth's April 11, 1972, election by persons who had not rendered taxable property in such City for taxation." (Appendix C, Jurisdictional Statement) These defendant-appellees were mandatorily enjoined and required to "consider Proposition Two (library bonds) to have been approved by the voters participating in that election," irrespective of whether or not such voters were renderers or non-renderers. The State statutory and constitutional provisions involved generally require that when an election is held by any political subdivision or defined district or municipal corporation

> " *** for the purpose of issuing bonds or otherwise lending credit, or expending money or assuming any debt, only qualified electors who own taxable property in the state, county, political subdivision, district, city, town, or village where such election is held, and who have duly rendered the same for taxation shall be qualified to vote *** ." (Article 5.03)

The provisions of the Home-Rule Charter of the City of Fort Worth struck down by the lower court provide as follows:

> "Section 19. Issuance and Sale of Bonds. The City Council shall have authority to provide for the issuance and sale of bonds for permanent improvements and for any other legitimate municipal purpose as may be determined by the City Council; but no bonds shall be issued to fund any overdraft or indebtedness incurred for current expenses of the city government, or any subdivision thereof. ***
>
> **"No bonds shall be issued unless authorized by ordinance, which** ordinance **shall provide an adequate fund from the taxes for the payment of the**

annual interest and sinking fund of not less than two per cent per annum for the ultimate redemption of such bond issue, and such ordinance shall become effective without the necessity of publication. Provided, that **no bonds shall be issued, nor bonded debt created, unless** authority therefor shall first be **submitted to the qualified voters who pay taxes on property situated within the corporate limits of the City of Fort Worth;** and, if a majority of the votes cast at such election are in favor of the issuance of such bonds, then such issue shall be made; but, should the majority of the votes cast at said election be against the proposition, then such bonds shall not be issued. *** The said bonds when issued shall be submitted to and approved by the Attorney General of the State of Texas, as required by the statutes of this State, before being offered for sale in the market." (Emphasis supplied) (Appendix D, Jurisdictional Statement, pp. 5d-6d)

The judgment of the Three-Judge Court dated March 25, 1974, is printed in Appendix A of the Jurisdictional Statement at pages 1a-4a.

QUESTION PRESENTED BY THE APPEAL

The following question is presented by the appeal:

> Are Sections 3 and 3a of Article VI of the Texas Constitution; Articles 5.03, 5.04 and 5.07 of the Texas Election Code; and Section 19, Chapter XXV of the Charter of the City of Fort Worth, which limit the franchise in general obligation, tax-supported bond elections to persons who own real, personal or mixed property which has been rendered for taxation, constitutionally invalid restrictions inconsistent with the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution?

STATEMENT OF THE CASE

This case arises out of a bond election held by the City of Fort Worth on April 11, 1972, at which two propositions were submitted to the voters: Proposition No. 1 provided for approval or non-approval by the voters of bonds for the purchase of the equipment of a bus transportation system; Proposition No. 2 provided for approval or non-approval by the voters of bonds for a new central library facility. (Ordinance No. 6644, Appendix, pp. 58-61)

At that election the following votes were cast and recorded on the Propositions:

	Owners of Property Rendered For Taxation	Non-Renderers	Total
Proposition No. 1 (Transportation, $3,000,000)			
For	13,466	4,094	17,560
Against	9,834	850	10,684
Proposition No. 2 (New Central Library, $6,860,000)			
For	10,849	3,758	14,607
Against	12,234	1,132	13,366

The case was submitted on "facts established by stipulation" as set forth on pages 19 through 43, in-

clusive, of the Pre-Trial Order rendered and signed November 8, 1972, which facts established by stipulation are printed as Appendix D in the Jurisdictional Statement and are set forth in the Appendix at pages 38-87. Judgment was rendered on March 25, 1974, granting plaintiff-appellees' every wish. This Court noted probable jurisdiction October 15, 1974.

STATEMENT, ARGUMENT AND AUTHORITIES

THE LIMITING OF A VOTING FRANCHISE TO RENDERED PROPERTY OWNERS IS NOT AN UNREASONABLE, ARBITRARY OR CAPRICIOUS CLASSIFICATION IRRECONCILABLY IN CONFLICT WITH THE FOURTEENTH AMENDMENT.

Among the "Facts Established by Stipulation" were the following:

> "38. That all of the bonds proposed to be issued under Proposition No. 2 (Library Bonds) would be general obligation, tax-supported bonds.
>
> "39. **That the principal of and interest on general obligation, tax-supported bonds** issued and sold by the City of Fort Worth to bona fide purchasers for value **are paid solely from the revenues from taxes levied, assessed and collected by the City of Fort Worth from persons who own real, personal or mixed property which has been rendered for taxation.**
>
> "40. That if defendant Roy A. Bateman (Treasurer of the City) were present in court, he would testify under oath that the requirement of rendition of property, personal and mixed, tangible and intangible, is a matter of vital importance and necessity to local taxing authorities by reason of the plain and simple fact that no property is more susceptible of concealment than is personal and mixed, tangible and intangible property; and that the requirement of voluntary rendition and disclosure of such property for purposes of ad valorem taxation is of the utmost importance and vitally necessary for an effective system of ad valorem tax assessment and collection and is directly and inextricably related to the creation of, payment and discharge of tax-supported bond obligations.
>
> "41. That if defendant Roy A. Bateman were present in court, he would testify under oath that the ad valorem tax is the life blood of local government financing and that the increasing burdens of local needs and inflation make ever increasing demands on local governments for additional tax revenues.
>
> "42. That if defendant Roy A. Bateman were present in court, he would testify under oath that **the principal and interest on general obligation, tax-supported bonds issued by the City of Fort Worth are, and will be, paid solely from the proceeds derived from taxes levied, assessed and collected from persons who own real, personal or mixed property which has been duly rendered for taxation;** that the assessed valuation of real (including improvements), personal and mixed property of the City of Fort Worth for the fiscal year 1970-71 was $1,370,483,290; that of such assessed valuation, real property constituted $1,017,895,540, and personal and mixed property amounted to $352,587,750; that the assessed val-

uation of real (including improvements), personal and mixed property in the City of Fort Worth for the fiscal year 1971-72 was $1,444,024,440; and that of such assessed valuation, real property constituted $1,077,271,500 and personal and mixed property amounted to $366,752,240.

"43. That if defendant Roy A. Bateman were present in court, he would testify under oath that for the year ending September 30, 1970, the City of Fort Worth derived $16,388,154 in taxes from real property rendered and placed on the assessment rolls and $5,676,669 from personal and mixed property rendered and placed on the assessment rolls; that for the year ending September 30, 1971, the City of Fort Worth derived $18,205,947.35 in taxes from real property rendered and placed on the assessment rolls and $6,198,138.73 from personal and mixed property rendered and placed on the assessment rolls; and that more than one-fourth of the total funds derived from taxation in the City of Fort Worth for the years 1970-71 was derived from the taxation of personal and mixed property in said City.

"44. That if defendant Roy A. Bateman were present in court, he would testify under oath that the fiscal year 1971-72 will require that from the funds derived from taxation, the sum of $7,364,524 must be allocated for principal and interest payments on general obligation tax bonds outstanding, which bonds are owned and held by bona fide purchasers for value throughout not only the entire United States but the world, and that the requirement of rendition of personal and mixed property, tangible and intangible, as a prerequisite to vote in a general obligation bond election is a matter of compelling necessity to the City

of Fort Worth by reason of the plain and simple fact that no property is more susceptible of concealment than is personal and mixed, tangible and intangible property.

"That as of December 31, 1971, the outstanding unpaid general obligation tax bond indebtedness of the City of Fort Worth was $92,852,000.

"That the City Council of the City of Fort Worth must provide funds to meet its outstanding general obligation tax bond payments during the fiscal year 1971-72 in the amount of $7,364,524, and that in excess of $1,840,000 of such $7,364,524 must be obtained from taxes derived from the rendition of personal and mixed property in the City of Fort Worth.

"45. That the defendant Roy A. Bateman is fully competent to testify to the above matters of fact contained in Stipulations Nos. 40 through 44, inclusive, and as Treasurer of the City of Fort Worth, he has personal knowledge of such facts." (Emphasis and insert supplied) (Appendix D, Jurisdictional Statement, pp. 24d-28d; Appendix, pp. 78-84)

Plaintiff-appellees' contentions are parallel to those asserting the invalidity of a 60% favorable vote requirement as opposed to the voter requirement of a simple majority to create bonded debt and increase taxes by levying a special tax to pay interest and principal. As a matter of fact, the Texas statutory requirements are nowhere near as restrictive as a 60% favorable vote "requirement" rather than a simple majority.

In this connection, in *Gordon v. Lance*, 403 U.S. 1, 91 S.Ct. 1889, 1891, 29 L.Ed.2d 273 (1971), this

Court held:

> "*Cipriano* was no more than a reassertion of the principle, consistently recognized, that an individual may not be denied access to the ballot because of some extraneous condition, such as race, *e.g.*, Gomillion v. Lightfoot, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed.2d 110 (1960); wealth, *e.g.*, Harper v. Virginia State Board of Elections, 383 U.S. 663, 86 S.Ct. 1079, 16 L.Ed.2d 169 (1966); tax status, *e.g.*, Kramer v. Union Free School Dist., 395 U.S. 621, 89 S.Ct. 1886, 23 L.Ed.2d 583 (1969); or military status, *e.g.*, Carrington v. Rash, 380 U.S. 89, 85 S.Ct. 775, 13 L.Ed.2d 675 (1965).
>
> "Unlike the restrictions in our previous cases, the West Virginia Constitution singles out no 'discrete and insular minority' for special treatment. The three-fifths requirement applies equally to all bond issues for any purpose, whether for schools, sewers, or highways. We are not, therefore, presented with a case like Hunter v. Erickson, 393 U.S. 385, 89 S.Ct. 557, 21 L.Ed.2d 616 (1969), in which fair housing legislation alone was subject to an automatic referendum requirement.
>
> "The class singled out in Hunter was clear — 'those who would benefit from laws barring racial, religious, or ancestral discriminations,' *supra*, at 391, 89 S.Ct., at 560. In contrast we can discern no independently identifiable group or category that favors bonded indebtedness over other forms of financing. Consequently no sector of the population may be said to be 'fenced out' from the franchise because of the way they will vote. Cf. Carrington v. Rash, *supra*, 380 U.S., at 94, 85 S.Ct. at 779.
>
> * * *

> "The Federal Constitution itself provides that a simple majority vote is insufficient on some issues; the provisions on impeachment and ratification of treaties are but two examples. Moreover, the Bill of Rights removes entire areas of legislation from the concept of majoritarian supremacy. **The constitutions of many States prohibit or severely limit the power of the legislature to levy new taxes or to create or increase bonded indebtedness, thereby insulating entire areas from majority control. Whether these matters of finance and taxation are to be considered as less 'important' than matters of treaties, foreign policy or impeachment of public officers is more properly left to the determination by the States and the people than to the courts operating under the broad mandate of the Fourteenth Amendment. It must be remembered that in voting to issue bonds voters are committing, in part, the credit of infants and of generations yet unborn, and some restrictions on such commitment is not an unreasonable demand.** That the bond issue may have the desirable objective of providing better education for future generations goes to the wisdom of an indebtedness limitation; **it does not alter the basic fact that the balancing of interests is one for the State to resolve.**
>
> **"Wisely or not, the people of the State of West Virginia have long since resolved to remove from a simple majority vote** the choice on certain decisions as to what indebtedness may be incurred and what taxes their children will bear.
>
> * * *
>
> **"That West Virginia has adopted a rule of decision, applicable to all bond referenda, by which the strong concensus of three-fifths is required**

before indebtedness is authorized, does not violate the Equal Protection Clause or any other provision of the Constitution." (Emphasis supplied)

Even more limiting are those statutes restricting the franchise to the owners of the lands subject to assessment for drainage improvements. In this connection, in *Wallegham v. Thompson*, 185 N.W.2d 649, 654 (N.D.1971), the court held as follows:

> " *** The statutory formula for voting rights in proportion to the anticipated assessment that land in the drainage district may be subjected to distributes voting influence fairly among the landowners. **Those landowners who own more land will be burdened more and have more at stake.**
>
> "In State v. Gamble Skogmo, Inc., 144 N.W.2d 749, 752 (N.D.1966), in paragraph 1 of the syllabus, we said:
>
> 'The Fourteenth Amendment to the United States Constitution permits the states a wide scope of discretion in enacting laws which affect some groups of citizens differently than they affect others. The constitutional safeguard is offended only if the classification rests on grounds wholly irrelevant to the achievement of the State's objective.'
>
> "We cannot say that the voting formula enacted by the legislature is wholly irrelevant to the achievement of the State's objective. Indeed, we are of the opinion that it is entirely relevant.
>
> "In State v. Gamble Skogmo, Inc., *supra*, we also said that a statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it; and that only invidious discrimination is prohibited by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.
>
> "The statutory voting formula can be reasonably justified, and if it is discriminatory it is not invidious. It stands upon reason. It is not arbitrary." (Emphasis supplied)

To the same general effect was the holding in *Beller v. Kirk*, 328 F.Supp. 485, 486 (S.D.Fla.1970), aff'd., 403 U.S. 925, 91 S.Ct. 2248, wherein the court held:

> "The State has the right and duty to establish reasonable regulations for the conduct of elections for state offices. There is no constitutional right to have one's name printed on the ballot. See Fowler v. Adams, *supra*. Plaintiff could be elected to office by a write-in vote without being a member of any political party, much less a majority party. Both Fowler v. Adams, *supra*, and Wetherington v. Adams (N.D.Fla.1970), 309 F.Supp. 318, conclusively answer plaintiff's arguments with respect to equal protection and any Fourteenth Amendment due process claim based upon an assertion that the right to run for office is a 'property right.' Judicial notice was taken that the right to qualify as a write-in candidate may be considered to be illusory in an equal protection context but that there have been successful and near-succesful write-in candidates in general elections in Florida within recent years. While not having one's name printed on the ballot may put him to some disadvantage in relation to one whose name does appear on the ballot, this does not constitute invidious discrimination, nor is it unconstitutional.
>
> "We specifically hold that the Florida Statutes here attacked are reasonable, and are not arbitrary, discriminatory or unconstitutional."

Constitutional adjudication should not be based upon the synthetically tenuous basis supporting the Memorandum Opinion, in which two-thirds of the lower court did not join, but merely concurred in the judgment. We must keep in mind that **the entire electorate of the State of Texas** in adopting the constitutional provisions of Article VI, §§ 3 and 3a; **the Texas Legislature** in adopting its civil statutes, Articles 5.03, 5.04 and 5.07 of the Election Code; and **the electorate of the City of Fort Worth** in adopting its Home-Rule Charter provision, Section 19 of Chapter XXV, could quite reasonably have concluded that no general obligation, tax-supported bonds should be issued (which bonds create a specific, direct tax lien on each item of property rendered and on the tax rolls) unless the owners and renderers thereof are permitted a dominant voice in the election to determine whether or not such bonds should be issued and whether or not such additional tax should be levied and such lien created and fixed; and further, since as a matter of uncontroverted fact

> " *** the principal and interest on general obligation, tax-supported bonds issued by the City of Fort Worth are, **and will be, paid solely from the proceeds derived from taxes levied, assessed and collected from persons who own real, personal or mixed property which has been duly rendered for taxation;** *** ." (Emphasis supplied) (Facts Established by Stipulation, No. 42, Jurisdictional Statement, pp. 25d-26d; Appendix, pp. 80-82),

the reasoning of this Court in *Salyer Land Co. v. Tulare Lake Basin Water Storage District*, 410 U.S. 719, 93 S.Ct. 1224, 1231, 35 L.Ed.2d 659 (1973), is applicable to the state of facts in the case at bar:

> " *** **The California Legislature could quite reasonably have concluded that the number of landowners and owners of sufficient amounts of acreage whose consent was necessary to organize the district could not have subjected their land to the lien of its possibly very substantial assessments unless they had a dominant voice in its control.** Since the subjection of the owners' lands to such liens was the basis by which the district was to obtain financing, the proposed district had as a practical matter to attract landowner support. **Nor, since assessments against landowners were to be the sole means by which the expenses of the district were to be paid, could it be said to be unfair or inequitable to repose the franchise in landowners but not residents.** Landowners as a class were to bear the entire burden of the district's costs, and the State could rationally conclude that they, to the exclusion of residents, should be charged with responsibility for its operation. We conclude, therefore, that nothing in the Equal Protection Clause precluded California from limiting the voting for directors of appellee district by **totally excluding those who merely reside within the district."** (Emphasis supplied)

SINCE THE OUTSTANDING, UNPAID GENERAL OBLIGATION TAX BOND INDEBTEDNESS OF THE CITY OF FORT WORTH WAS ALREADY $92,852,000 AS OF DECEMBER 31, 1971, AND SINCE THE RENDERING PROPERTY OWNERS HAD A DIRECT FINANCIAL INTEREST IN CONTROLLING THEIR INDEBTEDNESS AND TAXATION, THE TEXAS STATUTES AND THE CITY'S CHARTER PROVISION WERE REASONABLE LIMITATIONS.[1]

Surely it cannot be considered unreasonable for the electorate of the State of Texas and the City of Fort Worth and the Legislature of the State of Texas to adopt such measures as the rendition requirement for the salutary purpose of keeping indebtedness and taxation within controllable limits. We must keep in mind that the **same rendering voters** that turned down the $6,860,000 additional central library bond proposition voted by a wide margin for the issuance of $3,000,000 in general obligation, tax-supported bonds for the purchase of the bus transportation system. (Facts Established by Stipulation, No. 47, Jurisdictional Statement, p. 29d; Appendix, pp. 86-87) This salient fact conclusively demonstrates that the **same voters** made a political and economic choice or judgment to the effect that they were **"for"** levying a special new tax and fixing a lien on their property (real, personal and mixed) for the issuance of $3,000,000 in transportation bonds but were **"against"** levying a special new tax and fixing a lien on their property for the issuance

[1]Facts Established by Stipulation, No. 44, Jurisdictional Statement, pp. 27d-28d; Appendix, pp. 83-84.

of $6,860,000 worth of tax-supported general obligation bonds for an additional central library.

It is understandable that the same voters who were **"for"** the transportation bonds voted **"against"** the additional central library bonds since the rendering taxpayers were already saddled with tax bond payments (required to pay interest and principal on bonds outstanding) for the fiscal year 1971-72 and annually thereafter in the amount of $7,364,524, which amount is almost one-third of the total of $24,404,086.08 to be derived from ad valorem taxation for the year 1970-71. (Facts Established by Stipulation, Nos. 43 and 44; Appendix, pp. 82-84)

Clearly the outcome of the Fort Worth bond election is a classic example of the rendition requirement enhancing voter competence.

Why the Memorandum Opinion manifests such an apparent compulsion and studied effort to encourage debt and to increase taxation is almost beyond comprehension.

The Memorandum Opinion proclaims its own wisdom, virtue and morality while scoffing at that of the electorate of the State of Texas, its Legislature, and the electorate of the City of Fort Worth. For example, the Memorandum Opinion states:

> " *** It is sheer sophistry to say the classes create themselves, or that the voters disenfranchise themselves, when the state requires would-be voters to meet requirements entirely irrelevant to the needs of sound election administration or voter competence.

> "We might add that we suspect the Texas rendering requirement has created a class of citizens who own too little property to merit a vote in bond elections."

Such approach and philosophy mirrors the fallacious argument that ad valorem taxes should only be rendered by and collected from a wealthy minority and further is thoroughly inconsistent with the teachings of this Court in *Salyer*, supra, and in *Associated Enterprises, Inc., et al. v. Toltec Watershed Improvement District*, 410 U.S. 743, 93 S.Ct. 1237, 35 L.Ed.2d 675 (1973). In the latter case, this Court will recall its holding in part as follows:

> "We cannot agree with the dissent's intimation that the Wyoming Legislature has in any sense abdicated to a wealthy few the ultimate authority over land management in that state. The statute authorizing the establishment of improvement districts was enacted by a legislature in which all of the State's electors have the unquestioned right to be fairly represented. Under the act, districts may be formed only as subdivisions of soil and water conservation districts. *Id.*, § 41-354.3. And a precondition to their formation referendum is a determination by a board of supervisors of the affected conservation district, popularly elected by both occupiers and owners of land within the district, that the watershed improvement district is both necessary and administratively practicable. *Id.*, §§ 41-354.7, 41-354.8; Wyoming Conservation Districts Law, Wyo.Stat.Ann. § 11-234 et seq., § 11-243. As in *Salyer*, *supra*, we hold that the State could rationally conclude that landowners are primarily burdened and benefited by the establishment and operation of watershed districts and that it may condition the vote accordingly."

Further, there is absolutely no factual showing in the record of the number of people who render automobiles for taxation; yet, the Memorandum Opinion creates its own facts by concluding, "The record fails to indicate the number of people who render for taxation personalty **other than automobiles,** but we doubt that many do." (Emphasis supplied)

The record does not show that any automobiles were rendered, and as a matter of fact the Tax Assessor-Collector of the City of Fort Worth **has never enforced a policy of requiring renditions on private automobiles in the City!**

The voting qualification as to property rendition established by the electorate of the entire State of Texas with the adoption of Article VI, §§ 3 and 3a, is based upon the undeniable fact that property owners are, in the long run, the people who have to be held directly responsible for not only the creation of, but also any and all increases in the payment of bonded debt; and under all concepts of Athenian democracy, they should have the dominant interest to say whether or not such debt is necessary or desirable.

Under Proposition No. 1 (the transportation bonds), the rendering property owners were asked to determine whether or not an additional tax should be levied and a lien placed upon their real, personal or mixed property for a period of time which may exist for forty years — more than half a lifetime — and by a sub-

stantial majority, they answered in the affirmative. Under Proposition No. 2, the same rendering property owners were asked to determine whether or not such additional tax should be levied and a lien affixed upon their property and, by a substantial majority, they answered in the negative.

One of the reasons for the recent adoption of Public Law 92-512, the Federal Revenue Sharing Bill,[2] 31 U.S.C. § 1221 et seq., was the recognition by the Federal Government of the compelling necessity of avoiding increases in local ad valorem taxation and additional creation of debt at municipal levels. As this Honorable Court well knows, the financial soundness of our municipal governments is essential to our Federal System, and all informed sources admit to the conclusion that municipal governments currently face debt and taxation problems of a most severe nature. One does not have to be prophetic to recognize the plain and simple fact that municipal governments bear the brunt of the most difficult of domestic problems. The Congress recognized such fact in establishing the "State and Local Government Fiscal Assistance Trust Fund," 31 U.S.C. § 1224. At the present time, all local governments are having considerable difficulty in raising the revenue to meet current costs and to cover debt service. Neither the State of Texas nor the City of Fort Worth has any income tax source of revenue.

For many, many years the Federal Government, and more particularly the Congress, has recognized that

[2]*For Legislative History* of P.L. 92-512, see 3 U.S.Cong.&Adm. News '72, pp. 3874-3959.

the interest on the obligations of municipal corporations should be exempt from taxes imposed on gross income. 26 U.S.C. § 103. Further, this Court well knows that the Congress has for many years permitted the deduction from gross income of State and local ad valorem property taxes, thereby presumably reducing the net additional burden of State and municipal taxes on such Federal taxpayers. All of the taxpayers who claim such exemption from Federal taxation are deemed to have rendered their real, personal and mixed property for State and municipal taxes, and obviously they have such property on the tax rolls and have paid their property taxes or they would be unable to claim the Federal income tax exemption.

In erroneously concluding that the requirement of rendition or having property on the tax rolls is not of any compelling State interest and is in violation of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States, the lower court has, in effect, vicariously determined that the Federal tax exemption likewise violates the Equal Protection Clause. Under the holding of the lower court, the Congress itself may be guilty of violating the Equal Protection Clause by indirectly aiding State and municipal government ad valorem property taxpayers. Further, the Memorandum Opinion has, in effect, held that the Federal Government is likewise in violation of the Equal Protection Clause by exempting interest on State and municipal bonds from the Federal income tax.

Obviously, Federal income taxpayers claiming an

exemption or deduction for their interest on tax-exempt municipal bonds and their personal, real and mixed ad valorem property tax payments to State and municipal governments, such as the City of Fort Worth, have to meet the Federal Government's requirement of rendition in order to avail themselves of their constitutional and statutory rights to such exemptions and deductions.

We must keep in mind that the Federal Government's income tax rendition requirement is mandatory and that failure so to render subjects the taxpayer to criminal sanctions; whereas, the City's requirement of rendition or having property on the tax rolls is essentially voluntary. Although the constitutional, statutory and charter provisions are mandatory, there is no criminal penalty for failure to comply. Even a cursory examination of the Texas rendition requirements reveals that the qualification as to property rendition established by the electorate both at the State and local level does not disenfranchise anyone. **There is no requirement that any qualified elector pay the taxes;** mere ownership and rendition of real, personal or mixed property satisfies all requirements. Whether or not any individual has sufficient wealth to pay taxes levied or to be levied is irrelevant and not determinative in any way of his right to vote.

In *Montgomery*, supra, at page 641, the Supreme Court of Texas held in part as follows:

> " *** This is the manner in which the Texas Constitution, as approved by the entire citizenry of the state, provides inducement for those who

wish to participate in the decision making process in a School District to assume their rightful portion of the burden they help to create.

"Personal property such as stocks, bonds, cash, automobiles, and livestock furnishes a great deal of the state's taxable property. No class of property is so susceptible to concealment and escape from taxation as personal property. The government faces unending problems in seeking to comply with the Constitutional mandate that 'Taxation shall be equal and uniform.' Art. VIII, Sec. 1, Vernon's Texas Const. There may be other means to reach personal property, but **experience has shown that every means must be pressed into service if the obligations of government are to be spread equally.** This court articulated the correlation between **the rights of citizenship and the obligations of citizenship** in Markowsky v. Newman, 134 Tex. 440, 136 S.W.2d 808 (1940), when we said:

> ' . . . in determining the meaning, intent and purpose of a constitutional provision the history of the times out of which it grew and to which it may be rationally supposed to have direct relationship, the evils intended to be remedied and the good to be accomplished, are subjects of inquiry. . . .
>
> * * * *
>
> 'It might be further safely said that the good sought to be accomplished by this amendment was to induce owners of property to place it upon the tax rolls and become liable for its pro rata share of the taxes levied and assessed by the municipality.
>
> * * * *
>
> 'Moreover, it would be of great benefit to the

taxing authorities to have such rendition of personal property, particularly where such property cannot be easily found by the city authorities.'" (Emphasis supplied)

Plainly and simply, the five plaintiff-appellees in the case at bar, by their disinclination and refusal to render any species of property whatsoever to qualify as voters in ad valorem, tax-supported bond elections, were seeking, under the guise of an academically inspired civil rights crusade, to avoid the mandatory provisions of Article VIII, § 1, of the Constitution of the State of Texas and Article 7145 of the Revised Civil Statutes, **requiring that all property in the State of Texas be rendered and taxed in proportion to its value.**

The challenges in the case at bar do not present a case of first impression. In this connection, defendant-appellees would call to the attention of the Court *City of Fort Worth v. Cureton*, 222 S.W. 531 (Tex.1920), and *Hanson v. Jordan*, 198 S.W.2d 262 (Tex.1946).

The Court will observe that Article VI, § 3a, does not restrict itself to elections held by municipalities as does § 3 of the same Article. § 3a provides in part that when an election is held

> " *** by any county or any number of counties, or any political subdivision of the State, or any political subdivision of a county, or any defined district now or hereafter to be described and defined within the State and which may or may not include towns, villages or municipal corporations, or any city, town or village, for the purpose of issuing bonds or otherwise lending its credit, or spending money or assuming any debt, only qualified electors who own taxable property in the State, county, political subdivision, district, city, town or village where such election is held, and who have duly rendered the same for taxation, shall be qualified to vote *** ."

The obvious reason for the all-inclusive nature of such constitutional provision is that the topography of the State of Texas differs markedly from city to city, from county to county, from district to district, and from region to region. There are literally thousands of cities, towns and villages, water control and improvement districts, navigation districts, hospital districts, junior college districts and other special areas in which those who have rendered their real, personal or mixed property for taxation are frequently called upon to determine through the democratic election process whether or not they can afford to create long term debt and increase their taxation to pay for the construction of special public improvements, and to what extent such public improvements are a matter of public necessity. These are the areas and "defined districts" referred to in Article VI, § 3a, of the Texas Constitution. The only method by means of which these taxpayers can voice their approval or disapproval and protect themselves is in the election booth.

In addition to their interpretation in *Gordon v. Lance*, supra, the principal authorities cited in support of the lower court's decision were thoroughly distinguished and disposed of by the Texas Supreme Court in *Montgomery*, supra. There the court said:

"Several recent decisions of the United States

Supreme Court have invalidated state laws which selectively grant the right to vote and have held those laws violative of the equal protection clause of the Fourteenth Amendment. The court struck down a New York statute which granted the right to vote in a school district election only to those who owned or leased taxable real property in the district or were parents or custodians of children enrolled in the public schools. Kramer v. Union Free School District No. 15, 395 U.S. 621, 23 L. Ed.2d 583, 89 S.Ct. 1886 (1969). The same day the court decided *Kramer*, it also handed down Cipriano v. City of Houma, 395 U.S. 701, 23 L. Ed.2d 647, 89 S.Ct. 1897 (1969). The court held a Louisiana statute unconstitutional because it permitted only property owners to vote on the question of approving bonds that were to be financed exclusively from the revenues of a municipal public utility. In Phoenix v. Kolodziejski, 399 U.S. 204, 26 L.Ed 2d 523, 90 S.Ct. 1990 (1970), an Arizona constitutional limitation of the franchise in bond authorization elections to persons who are qualified electors and also real property taxpayers was held to be a violation of the equal protection clause.

"These precedents constitute the framework for the School District's contention that the Texas constitutional and statutory limitations upon voting rights in a school bond election are also violative of the Fourteenth Amendment. There are significant differences between the three cases cited above and this case. In *Cipriano*, the court held that ownership of property was a restriction which was irrelevant to an election for the approval of bonds that would be financed by revenues of a public utility and not by taxation of property. The case before us does not concern

revenue bonds. In *Kramer* and *Kolodziejski*, only persons who were real property owners were permitted to vote. The Texas law does not restrict voting rights to owners of real property.

"One other case needs discussion. The United States District Court for the Eastern District of Louisiana struck down Louisiana statutes which restricted eligibility to vote in bond elections to property taxpayers and also weighed each elector's vote by the monetary value of his assessed property. Stewart v. Parish School Bd. of Parish of St. Charles, 310 F.Supp. 1172 (E.D.La.1970), aff'd mem. ..... U.S. ....., 27 L.Ed.2d 129, 91 S.Ct. 136. The court said that the affluence of the voter was not such a compelling state interest as to justify the denial of the vote to some and the dilution of the votes of the majority. We do not have that problem in this case. **The weight and force of the vote of the Texas elector who owns a bicycle is no different from that of the elector who owns a herd of cattle.** It is immaterial to the right to vote in a bond election whether one's ownership of property is great or small. DuBose v. Ainsworth, 139 S.W.2d 307 (Tex.Civ.App. 1940, writ dis.).

"The provisions of the Texas Constitution and the Education Code, quoted above, show that the citizens of the Montgomery Independent School District had the right to vote if they owned any kind of property. Article 7145, Vernon's Tex.Civ. Stat. provides: 'All property, real, personal or mixed except such as may be hereinafter expressly exempted, is subject to taxation, and the same shall be rendered and listed as herein prescribed.' Unlike these restrictive voting laws which have been declared unconstitutionally narrow and lim-

ited, the laws in Texas have consistently granted the right to vote in general obligation bond elections to all who own personal property as well as to those who own real property. Texas Public Utilities Corporation v. Holland, 123 S.W.2d 1028 (Tex.Civ.App. 1939, writ dis.). In Handy v. Holman, 281 S.W.2d 356 (Tex.Civ.App. 1955, no writ), the right to vote of forty resident citizens was challenged because immediately before participating in a bond election, they had each rendered personal property valued at $100 for the very purpose of voting in a bond election. The court upheld their right to vote and also said that electors should not be 'parsed' out of their constitutional right to vote by reason of any shortcoming in compliance with statutory requirements concerning the proper and timely rendition of personal property.

"It is the contention of the Attorney General, and we agree, that voter qualifications of ownership under the Texas constitutional and statutory provisions stated above, as interpreted by our decisions, are so universal as to constitute no impediment to any elector who really desires to vote in a bond election. A voter is qualified if he renders any kind of property of any value, and he need not have actually paid the tax.

"The quoted provisions of the Constitution and the Education Code requiring the property owner to duly render his property for taxation have been often construed by the Texas courts in connection with voting rights. Property is 'duly rendered' within the meaning of the Texas Constitution if the property is placed on the tax rolls by the tax assessor instead of by the property owner, Texas Public Utilities Corporation v. Holland, supra,

or by some other person such as a husband, partner, agent, or co-tenant and even though the owner's name may not appear on the tax rolls; Markowsky v. Newman, 134 Tex. 440, 136 S.W.2d 808 (1940); Royalty v. Nicholson, 411 S.W.2d 565 (Tex.Civ.App. 1967, writ ref. n.r.e.); Lucchese v. Mauermann, 195 S.W.2d 422 (Tex.Civ. App. 1946, writ ref. n.r.e.), cert. denied, 329 U.S. 812, 91 L.Ed.2d 693, 67 S.Ct. 633 (1947); Richter v. Martin, 342 S.W.2d 342 (Tex.Civ.App. 1961, no writ); Campbell v. Wright, 95 S.W.2d 149 (Tex.Civ.App. 1936, no writ); or when one makes his rendition out of time and for the very purpose of qualifying as a voter. Markowsky v. Newman, supra; Handy v. Holman, 281 S.W.2d 356 (Tex. Civ.App. 1955, no writ)." (Emphasis supplied)

The tax lien which is levied and placed on the property of renderers when a bond proposition passes and bonds are issued is a brand new special tax for a specially created district each time such an election is held. Such a special election is not related to an exercise of the general powers of government. **The proceeds from the sale of the bonds can only be used for the specific special facility purpose authorized by the electorate,**[3] and the special tax must be levied until such time as all of the special facility bonds are paid off. If the judgment of the Three-Judge Court is allowed to stand, property-rendering voters will have electoral voices so weakened and diluted by allowing unconcerned non-renderers to vote and to place a lien

[3]Sec. 19 of Chapter XXV of the Charter of the City of Fort Worth, which was stricken down by Justice Thornberry, provides in part that "no bonds shall be issued to fund any overdraft or indebtedness incurred for current expenses of the city government, or any subdivision thereof." (Appendix, pp. 45-46)

on the property of the renderers that the latter will be taxed without any direct representation of their interests. Non-renderers do not have a direct tax and lien imposed on their unrendered property.

In the April 11, 1972, bond election, voters considered, in effect, the creation of two special purpose districts, each of which, if created, would impose a separate, new tax on the property renderers of Fort Worth. In *Salyer*, supra, this Court carefully enunciated that by reason of the water storage district's limited purpose and its **disproportionate effect on landowners as a group,** the California laws **did not** deny equal protection by limting the franchise to district landowners, thereby denying the vote to non-landowning residents. The facts in the case at bar are consistent with those in *Salyer*—the disproportionate effect that the creation of a special transportation or library district would have on property renderers individually and as a group offsets the non-renderers' wholly subjective complaint that they are being denied equal protection.

In the bond election of April 11, 1972, the voters of Fort Worth were asked to consider propositions authorizing the creation of two special purpose districts, a special public transportation bus system and a special public library district, the library district being for the sole purpose of constructing a new central library in addition to the present seven branch libraries and the existing central downtown library. Both the renderers and non-renderers apparently decided that a viable bus transportation system was of sufficient

necessity to require approval of the bonds to finance it. However, when the same voters were asked to create additional debt and raise taxes for the issuance of bonds to finance **another** central downtown library, those same voters who would be directly responsible for financing the bonds apparently concluded that the existing central downtown library was sufficient to meet the needs of the public and that the cost of another central downtown library would be an extravagance far exceeding the benefits such library would provide. Our totally altruistic non-renderers, on the other hand, had no apparent concern as to whether or not they could afford an extra new library, especially since they would not have to share directly in its costs. If the votes of these non-renderers must be counted and the extra library constructed, as urged by plaintiff-appellees, the renderers of the City of Fort Worth will, in effect, be disenfranchised and required to make a donation for another central library.

The challenged laws of the State of Texas and the charter provisions of the City of Fort Worth require the rendition of not only real property, but also personal and mixed property.[4] The ad valorem property tax in question, if authorized, is levied on each piece of rendered property until the bonds are paid off. The election laws of the State of Texas require the rendition of only one (1) piece of property, real, personal or mixed, to qualify one to vote in a general obligation, tax-supported bond election. **No amount of property is too small to render for taxation and thereby qualify**

[4]"The Texas law does not restrict voting rights to owners of real property." *Montgomery*, supra, at p. 640.

as a voter. There is no showing in the record that each of plaintiff-appellees herein does not own some piece of property (real, personal or mixed) which under the tax laws of Texas should be placed on the tax rolls and subjected to the property tax. The Court should keep in mind that anyone otherwise qualified who fulfills his or her legal obligation to the State automatically becomes an eligible voter in an ad valorem tax-supported bond election.

Although the tax revenue from each piece of rendered property may seem insignificant to the lower court, collectively this revenue is the basic form of tax support for Texas municipalities. As the Texas Supreme Court said in *Montgomery*, supra, it is imperative that every means of collecting be pressed into service for the collection of property taxes to insure that the tax burden is evenly shared by all citizens. Requiring rendition of property to qualify in a tax-supported bond election is one means of getting property on the tax rolls, especially personalty, which is easily concealed.

In summarily holding that the requirements of the State are "entirely irrelevant to the needs of sound election administration or voter competence," the lower court has opened a veritable Pandora's box of attacks on other limitations of the franchise which also might be characterized as being "irrelevant." In all elections there will be some citizens who are too young to vote or who cannot meet the residency requirements to vote, yet who may be more interested and informed as voters than many of those actually qualified. However, age limitations and residency requirements of the franchise are recognized as necessary for "sound election administration," although we accept the fact that such limitations may, in some instances, be irrelevant to "voter competence." There is no showing in the record that any of the plaintiff-appellees have more than a casual interest in the passage of the library bonds; however, the **financial interest** of the renderers **as a group** is so overriding and their **competence** as voters **as a group** so far surpasses that of non-renderers that failure to limit the vote to rendering property owners would completely ignore the necessity for "sound election administration" as well as "voter competence."

When the lower court opines that the Texas rendering requirement could create a class of citizens who own too little property to merit a vote in bond elections, it either exhibits a basic misunderstanding of the requirement or is legislating. There is **no minimum rendering requirement,** for rendering a kitchen clock would qualify a voter as fully as rendering a herd of cattle. The only amount of property which is "too little" to merit a vote is **no** property, and it is difficult to conjure up a citizen or a class of citizens who individually or collectively owns **nothing.** The challenged provisions disenfranchise no citizen nor class of citizens by requiring that at least a single piece of property, real, personal or mixed, must be rendered to qualify as a voter in general obligation, tax-supported bond elections; rather, by personal inaction each of the complaining citizens has disenfranchised himself by refusing to comply with the statutory provisions.

The lower court bases part of the Memorandum Opinion on the "upward mobility" of our society, which, one can only suppose, refers to the hypothesis that our standard of living may be improving, and, as a consequence, greater numbers of people may become property owners in the future. We assume that this supposition is employed to point out that those citizens who are not now property renderers may become so at some future date and are unconstitutionally denied the franchise by the challenged Texas election laws. Whether or not it is true that our society demonstrates "upward mobility," the argument is fundamentally perishable. First, children merely one day under eighteen years of age are in the same position as the current non-renderers who may be planning to render property some sunny day. During the forty-year limiting period that the bonds may be in effect,[5] the property tax rolls will undergo many changes, and many people who were not eligible to vote for a variety of reasons, such as age and residence requirements, will become liable for the bonds. Furthermore, the results of any election could never be completely representative of the voters in a district during the entire twenty-five or forty year life of such bonds. To compile eligible voter lists, accurately projected into the future, would require nothing less than prophetic ken.

In a general obligation, tax-supported bond election, it is the part of reason and practicality that the voters currently eligible decide the special issues in question.

[5]As a matter of historic fact, the City of Fort Worth has never issued any ad valorem tax-supported bonds with a maturity in excess of twenty-five years.

We must assume that such rendering property owners will competently express the desires of renderers and that their decisions will not be completely at odds with future generations of property renderers. Further, any person who becomes a renderer after a general obligation, tax-supported bond election so becomes a renderer with full knowledge of the lien which has been or will be placed on his or her property and is not, therefore, undertaking any financial responsibility for which he or she does not choose to become liable.

In determining whether the constitutional provisions in question are violative of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, it is enlightening to reflect upon this Court's finding in *Williams v. Rhodes*, 393 U.S. 23, 89 S.Ct. 5, 10, 21 L.Ed.2d 24 (1968):

> " * * * this court has firmly established the principle that the Equal Protection Clause does not make every minor difference in the application of laws to different groups a violation of our Constitution."

The State aim and compelling necessity of using every available means to enable it to enforce the law requiring voluntary rendition is validated in *Montgomery*, supra, at page 641:

> " * * * There may be other means to reach personal property, but experience has shown that every means must be pressed into service if the obligations of government are to be spread equally."

Despite the fact that some non-renderers within the community may have property taxes passed on to them

in the market prices they pay, it is also indelibly certain that the increase in taxes will have its most direct and penetrating effect on the renderers. The burden of increased taxes in the form of higher market prices will also be passed on to the purchasers of goods and services produced within the community who live beyond the corporate limits. However, not even plaintiff-appellees can logically claim that these distant buyers have an interest in the election although they may be responsible for payment in the same way as non-renderers in the community. Rather, it is a well recognized fact that limits must be placed somewhere, and it is only logical and reasonable that those who render their property for taxation and thereby assume their proper burden of responsible citizenship, should be within the limitations, while those who do not choose to take such responsibility should be outside the limitations and not allowed to vote.

The classification in the case at bar is the means to a permissible legislative end. A rational person can easily see the relationship between such classification and its legislative ends — the requirement that one must render property for taxation in order to vote in a general obligation, tax-supported bond election is a compelling inducement for rendition of property and tends to enhance voter competence. The constitutional, statutory and charter provisions which call for the rendition of either personal, real or mixed property for taxation in order to become a qualified voter in general obligation, tax-supported bond elections are rationally related to a permissible legislative end and serve several purposes:

1. They serve as an appropriate means to the legislative end of collecting property taxes.
2. They insure that those who will bear the direct burden of paying for the bonds supported by a lien placed on their property will have a strong voice (undiluted by those hoping for benefits without cost) in deciding exactly how great a burden they are willing to assume.
3. They create an electorate composed of more informed and knowledgeable voters. This is not to say that property renderers are inherently more intelligent than non-renderers; rather they are more likely to make themselves aware of the issues and to cast a more knowledgeable ballot because they obviously have an infinitely greater personal stake in the outcome of the bond election.
4. They tend to keep indebtedness within controllable limits.
5. They tend to keep ad valorem property taxation within controllable limits.

It is important to realize that in all elections, necessary restrictions are placed on the franchise. The restrictions limiting the vote to those eighteen years of age and older, to residents in the voting district, and to those who have not been otherwise disenfranchised undoubtedly deny the vote to one or more individual citizens who may be informed on the issues and may have a great interest in them. This Court, in *Kramer v. Union Free School District*, 395 U.S. 621, 89 S.Ct. 1886, 1895, 23 L.Ed.2d 583 (1969), a case involving the franchise to vote for the members of a school board, said:

> " *** Just as '[i]lliterate people may be intelligent voters,' nonresidents or minors might also in some instances be interested, informed, and intelligent participants in the electoral process. Persons who commute across a state line to work may well have a great stake in the affairs of the State in which they are employed; some college students under 21 may be both better informed and more passionately interested in political affairs than many adults. But such discrepancies are the inevitable concomitant of the line drawing that is essential to law making. So long as the classification is rationally related to a permissible legislative end, therefore — as are residence, literacy, and age requirements imposed with respect to voting — there is no denial of equal protection."

It would be impossible to accurately distinguish those non-renderers who are informed and genuinely interested in the outcome of the bond election from those who are only hoping for hand-outs from the property-rendering ad valorem taxpayers.

The Three-Judge Court has erroneously compared the unconstitutional poll tax to the State's rendering requirement. The poll tax is readily distinguishable from the rendering requirement: (1) The rendering requirement makes rendering any kind of property a prerequisite to voting; it does not require the payment of the tax. (2) The rendering requirement is a prerequisite to voting only in special general obligation, tax-supported bond elections, not all elections. (3) The rendering requirement has no relationship to an exercise of the general powers of government but only concerns itself with a special type of election. Willingness

to pay the poll tax has nothing to do with voter qualifications; willingness to render property for taxation shows a willingness to back financially the bonds the voters approve. The poll tax requirement had no relevance to voter capability; whereas, the rendering requirement, as has been conclusively demonstrated in the argument herein, distinguishes those voters who not only are more knowledgeable of the propositions being decided because of the responsibility they will incur through their votes, but who also are willing to comply with the responsibilities of citizenship by voluntarily rendering their property for taxation, as opposed to those voters who shirk such obligations.

The facts in the case at bar differ markedly from those in *City of Phoenix v. Kolodziejski*, 399 U.S. 204, 90 S.Ct. 1990, 1994, 26 L.Ed.2d 523 (1970). There it was stipulated:

> " *** that more than half of the debt service requirements will be satisfied not from real property taxes but from revenues from other local taxes paid by nonproperty owners as well as those who own real property."

In the case at bar, the uncontroverted, stipulated testimony of the Treasurer, Mr. Bateman, shows that the debt service on all outstanding tax-supported bonds is and will be paid solely from tax proceeds. (Appendix, pp. 79-84)

The returns of the election show that the owners of property rendered for taxation were perfectly willing to support the acquisition of the bus system by a sub-

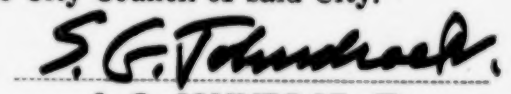
stantial majority but saw no public necessity to issue general obligation, special purpose bonds and increase taxation for another central library.

CONCLUSION

In conclusion, we sincerely believe that it has been shown herein that the rendering requirements set forth in the Constitution and statutes of the State and in the Charter of the City of Fort Worth are logical, suitable and reasonable for voters in a general obligation, tax-supported, special purpose bond election. They do not restrict the franchise to the "wealthy"—the constraints they place on voting can be met by any otherwise qualified voter willing to assume his or her responsibilities of citizenship. The rendering requirement in a general obligation, special purpose, tax-supported bond election is as reasonable a limitation on the franchise as are residence and age requirements in all elections. Such distinguishes a group of voters who are more knowledgeable about and have a greater interest in the outcome of the bond election than those who have no financial stake therein. Furthermore, it is an appropriate, fair and reasonable means to the legislative end of controlling debt and taxation, as well as collecting the easily hidden ad valorem property taxes which support the municipalities of Texas. The cries of plaintiff-appellees herein that they are being denied equal protection have no basis in law or in fact.

We respectfully submit that the decision of the Three-Judge Court should be reversed and rendered on behalf of appellant and the City of Fort Worth; R.

M. Stovall, its Mayor; S. G. Johndroe, Jr., its City Attorney; Roy A. Bateman, its City Secretary; and the Members of the City Council of said City.



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CERTIFICATE OF SERVICE

I, S. G. Johndroe, Jr., City Attorney of the City of Fort Worth, Texas, attorney for appellees, the City of Fort Worth, Texas, a municipal corporation; R. M. Stovall, its Mayor; S. G. Johndroe, Jr., its City Attorney; Roy A. Bateman, its City Secretary; and the Members of the City Council of said City, in the above entitled and numbered cause, hereby certify that on the 24 day of Dec., 1974, I served true and correct copies of this Brief of Appellees by placing the same in the United States Mail, postage prepaid, correctly addressed to

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